

*New Laws Affecting the
Funeral and Cemetery Industries*

Three bills affecting the funeral and cemetery industries were recently passed by the California Legislature and took effect on January 1, 2000. For your convenience, the Department of Consumer Affairs (DCA) has summarized each new requirement below and referenced the specific bill and the appropriate section of the Health and Safety (H&S) or Business and Professions (B&P) codes. The complete text of the bills is available through the Internet at www.leginfo.ca.gov.

Funeral and Cemetery Licensees

Right to Control Disposition

The first individual with the right to control disposition, unless other directions have been given by the decedent, is an agent under a durable power of attorney for health care, followed in order by the competent surviving spouse, the sole surviving competent adult child (or the majority of the surviving competent adult children), surviving competent parent or parents, surviving competent next of kin, and the public administrator. (For purposes of this section, "adult" means an individual who has attained 18 years of age, "child" means a natural or adopted child of the decedent, and "competent" means an individual who has not been declared incompetent by a court of law or who has been declared competent by a court of law following a declaration of incompetence.) (AB 1677/H&S 7100) **(The changes here are minor, with "agent" replacing "attorney-in-fact," "the majority of the surviving competent adult children" replacing "one-half or more of the surviving adult children," and "competent" being inserted in all cases.)**

Continuing Education

The continuing education requirement for license renewal **(formerly 14 hours)** has been deleted. (AB 1379/deletes B&P 7622.3 and 7651)

Transporting Bodies Donated for Medical Purposes

A funeral director or an officer of an accredited medical college does not need a burial or removal permit to transport a body that has been donated to the college from one registration district or county to another, or *within the same* district or county. (AB 1677/H&S 7055) **(This corrects an oversight in the law.)**

Preneed Trust Taxes

Trustees may pay taxes on the earnings of preneed trusts; however, such payment may **not** be made from the trust corpus, and it may not be considered part of the annual administration fee or reserve. (AB 1379/B&P 7735)

Declaration Form

The DCA-produced declaration form that gives specific instructions regarding disposition of cremated remains may now be signed either by an employee or agent of the funeral establishment, or the funeral director. (AB 1677/B&P 7685.2) **(Formerly only the funeral director was permitted to sign.)**

Contracts

Any contract for goods and services offered by a funeral director must include the following statement in 8 point boldface type: "FOR MORE INFORMATION ON FUNERAL, CEMETERY, AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, 400 R STREET, SACRAMENTO CA 95814, 916-322-7737." (AB 1677/B&P 7685.3) **(This adds the words "cemetery" and "cremation" to the required information.)**

Cemetery Districts

Cemetery authorities and districts must comply with the Mausoleum and Columbarium Law. (SB 954/H&S 8279, 8961.13, 9513) **(Adds reference to the Mausoleum and Columbarium Law, which is included as sections 9501-9513 of the Health and Safety Code.)**